IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 168 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ? 1 to 5 NO

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NALINIBEN MAHENDRABHAI DOSHI & 1 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR AD SHAH for Applicant(s) : 1 - 2.
MR SS PATEL ADDL PUBLIC PROSECUTOR for Respondent(s) : 1,
MR JK PARMAR for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 21/11/2006

ORAL JUDGMENT

At the end of brief arguments by the learned counsel on both sides, it was conceded that, having regard to the allegations made by respondent No.2 in the original complaint, the

impugned order dated 2.1.1995 below the complaint ordering investigation by police was neither required nor justified. Therefore, it was required to be set aside with the clarification that the trial court may proceed with the complaint in accordance with law and the procedure prescribed for the complaints made to the magistrate. Accordingly, the petition is allowed to the extent that the impugned order dated 2.1.1995 below the complaint of respondent No.2 is quashed. The trial court may proceed with the complaint in accordance with the provisions contained in Chapter XV of the Code of Criminal Procedure, 1973. Rule is made absolute with no order as to costs.

Sd/-

(D.H.Waghela, J.)

(KMG Thilake)